



THE DEPUTY SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

Plc 74-1611
JUN 5 1974

Honorable Thomas E. Morgan
House of Representatives
Washington, D. C. 20515

Dear Mr. Chairman:

The Department of Defense has noted with some concern Sections 8 and 16(b) of the FY 1975 State/USIA Authorization Bill (S.3473) passed by the Senate on 20 May 1974 and now under consideration by the House Subcommittee on State Department Organization and Foreign Operations.

Section 8 is based on a letter from previous Presidents to all U.S. Ambassadors, and renewed in December 1969 by President Nixon. The letter gives the Ambassador full responsibility to direct and coordinate the activities and operations of all elements of the U.S. Diplomatic Mission and refers to the responsibility of the Secretary of State for the overall direction, coordination, and supervision of U.S. Government activities overseas. Section 8 would assign to the Ambassador the full responsibility for the direction, coordination, and supervision of all U.S. Government officers and employees in the country other than personnel under the command of a U.S. area military commander.

By adding "supervision" to the Ambassador's responsibility and by changing the adjective from "overall" to "full" as regards "supervision," Section 8 raises the following questions:

- whether non-Department of State civil service employees overseas should remain on the payroll of their parent departments and agencies;
- whether the Ambassador would be responsible for personnel actions (assignments, promotions, separations, within-grade step increases) of such employees stationed overseas if they remain on the payroll of their parent departments and agencies;
- whether DoD representatives would continue to write efficiency reports on MAAG military personnel and defense attaches or whether the Ambassador would assume the job of rating them;

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- whether the dual reporting system would be modified so that non-Department of State personnel and organizations would be permitted to report in parallel to their parent departments and agencies only with the permission of their "supervisor," the Ambassador.

In short, the concept of "supervision" may here suggest that the concept of "parent department or agency" would become inappropriate overseas, that the Department of State should request payroll funds for these people, and that military personnel would, while remaining in military service, be detailed to the Diplomatic Mission and solely responsible to the Ambassador for execution of his orders.

The President's letter can legally be modified in whole or in part as he or his successors choose whereas Section 8, if enacted as an Act of Congress, cannot. It is, after all, the President's Constitutional authority to conduct foreign policy which is involved, and if he decides to exercise it personally or through an agent other than the duly appointed Chief of Mission or Principal Officer in a particular matter or subject of concern, he may now without legal objection do so. For example, the President's letter reserves for himself "direct authority ... over such other military activities as I elect, as Commander-in-Chief, to conduct through military channels." Section 8 would not appear to permit a President in the future to employ alternative channels or individuals to conduct our foreign relations. Aside from Constitutional difficulties which such a law would face, common sense suggests that there will continue to be situations in which it will be desirable to use a less formal, more flexible means to propose or receive proposals than the Ambassador or those under his direction.

The Defense Department suggests that these difficulties may be met by making two alterations of the wording of Section 8:

- Insertion of the phrase, "Under the direction of the President --" between "Sec. 16." and "(a)". Such a modification would parallel Sec. 622(c) of the Foreign Assistance Act of 1961 and Sec. 2(b) of the Foreign Military Sales Act (Title 22 United States Code, sections 2382(c), 2752(b));
- Deletion of the words "and supervision" from subsection 16(a) proposed by Section 8 of S.3473.

Secondly, Section 16(b) directs a 10 percent across-the-board reduction in the number of Department of Defense military and civilian personnel (other than foreign nationals) which could be assigned or detailed overseas as attaches or to various Military Assistance Advisory Groups or Military Missions, commonly known as MAAGs.

Since completing in September 1972 the 15 percent reduction in MAAG strengths mandated by Section 512 of the Foreign Assistance Act of 1971, the Defense Department has, through good internal management procedures, further reduced the MAAGs by 8 percent and is continuing to examine MAAGs with a view to making additional reductions in FY 1975. This objective can be best accomplished by DoD without the mandatory reductions imposed in the State/USIA Authorization Bill.

Furthermore, the Report accompanying S.3473 states that Section 16(b) would also include Technical Assistance Field Teams (TAFTs). These teams are not representatives of our government to foreign governments. Moreover, their services are fully cost reimbursed by the recipient foreign country pursuant to the Foreign Military Sales Act, as amended.

We also do not believe that there should be a numerical ceiling on U.S. military and naval attaches, who are diplomats in the full sense of the term, any more than there should be a ceiling by law on the number of First Secretaries of Embassy which can be accredited to foreign countries. Indeed, the Department of Defense urges deletion of the whole of Section 16 on the grounds that personnel ceilings should not be legislated. Sound personnel management practices suggest that changing personnel levels should be responsive to our changing personnel requirements rather than being imposed irrespective of our foreign policy needs as determined by the President.

I trust that you will consider these suggestions during the examination of the Bill by your Committee.

Sincerely,

Signed

W. P. CLEMENTS JR.

OFFICE OF THE SECRETARY OF DEFENSE

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Memo For George Carly
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Per your request

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